

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED  
SCHOOL DISTRICT.

OAH Case No. 2016031234

ORDER DISMISSING EXPEDITED  
HEARING REQUEST

On March 28, 2016, Student filed an Expedited Due Process Hearing Request (expedited complaint) against Temecula Valley Unified School District. On March 28, 2016, the Office of Administrative Hearings issued a Scheduling Order and Notice of Expedited Due Process Hearing and Mediation. The parties participated in a prehearing conference on April 22, 2016, in which the expedited hearing dates of April 26 through 28, 2016, were confirmed.

On April 25, 2016, OAH received Student's request to vacate the expedited hearing dates as the parties had reached a final agreement, subject to approval by the District's Board on May 3, 2016. Attached to Student's request were copies of the parties' signatures to the agreement.

OAH subsequently contacted the parties to inform them that OAH could not vacate the expedited hearing dates absent a withdrawal of the expedited issues for hearing, but would vacate the first day of hearing, April 26, 2016, to permit Student to withdraw the expedited issues.

On April 26, 2016, OAH received from the parties a request for an emergency status conference. The basis of the request was that Student's counsel would not be available for hearing on April 27 and 28, 2016, due to a family emergency.

APPLICABLE LAW

A parent of a child with a disability who disagrees with any decision by a school district regarding a change in educational placement of the child based upon a violation of a code of student conduct, or who disagrees with a manifestation determination made by the district, may request and is entitled to receive an expedited due process hearing. (20 U.S.C.

§ 1415(k)(3)(A); 34 C.F.R. § 300.532(a) (2006).<sup>1</sup>) An expedited due process hearing before OAH must occur within 20 school days of the date the complaint requesting the hearing is filed. (20 U.S.C. § 1415(k)(4)(B); 34 C.F.R. § 300.532(c)(2) .) The procedural right to an expedited due process hearing is mandatory and does not authorize OAH to make exceptions or grant continuances of expedited matters. (*Ibid.*) In sum, a matter can only be unexpedited or continued if no issue is alleged that is subject to an expedited hearing, or if the student withdraws the issues in the complaint that triggered the expedited hearing.

## DISCUSSION

OAH cannot vacate the expedited hearing dates as the Individuals with Disabilities Education Act and implementing regulations are specific that an expedited hearing shall commence by the 20th school day after the expedited complaint is filed, and makes no provision for the granting of continuance. The parties' request for an emergency status conference states clearly that Student's legal counsel is not able to participate in the expedited hearing due to a death in the family. As the parties have reached an agreement subject to approval by the District's Board, this matter is dismissed without prejudice and expedited hearing dates vacated.

## ORDER

Student's expedited due process hearing request is dismissed without prejudice. Student may refile this matter if the District's Board does not adopt the settlement agreement.

DATE: April 26, 2016

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*Peter Paul Castillo*

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PETER PAUL CASTILLO

Presiding Administrative Law Judge  
Office of Administrative Hearings

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<sup>1</sup> All subsequent references to the Code of Federal Regulations are to the 2006 version.